

Message Text

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ORIGIN EB-11

INFO OCT-01 EA-11 ADP-00 L-03 COME-00 RSC-01 HEW-08

CIAE-00 INR-09 NSAE-00 INRE-00 /044 R

DRAFTED BY EB/ CBA/ BP: EJRankin: VJW

3/22/73 EXT 2 L052

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EA/ PHL - THWALSH (DRAFT)

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COMMERCE - JLIGHTMAN (PHONE)

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P 222007 Z MAR 73

FM SECSTATE WASHDC

TO AMEMBASSY MANILA PRIORITY

UNCLAS STATE 052964

E. O. 11652: N/ A

TAGS: EIND, RP

SUBJ: PROPOSED REVISION OF PHILIPPINE PATENT LAW FOR
PHARMACEUTICAL PRODUCTS

REF: MANILA 3083

1. USG STRONGLY SUPPORTS PATENT PROTECTION THROUGHOUT
WORLD AND BELIEVES THAT INDUSTRIAL PROPERTY PROTECTION
MAKES AN IMPORTANT CONTRIBUTION TO THE ECONOMIC PROGRESS
OF DEVELOPING COUNTRIES AND IS AN INCENTIVE TO INVESTMENT
IN MANY INDUSTRIES.

2. US PATENT LAWS ARE AMONG THE MOST THOROUGH IN PRO-
VIDING FOR PRODUCT PATENT PROTECTION INCLUDING PHARMA-
CEUTICAL PRODUCTS.

3. GOP PROPOSED ACTION IS CONTRARY TO TREND IN MANY
COUNTRIES TOWARD PRODUCT PATENT PROTECTION. THESE INCLUDE
SOME 20 EUROPEAN COUNTRIES EXPECTED TO NEGOTIATE THE
EUROPEAN PATENT CONVENTION LATER THIS YEAR. PROVISION
FOR PRODUCT PATENT PROTECTION IN PRESENT DRAFT EXPECTED
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REMAIN IN FINAL CONVENTION WHICH BECOMES EFFECTIVE 1975.

4. INDUSTRY VIEW AS EXPRESSED BY PHARMACEUTICAL MANUFACTURERS ASSOCIATION (PMA) IS THAT PROPOSED AMENDMENT PATENT LAW WOULD ADVERSELY AFFECT RESEARCH- BASED DRUG COMPANIES DOING BUSINESS IN PHILIPPINES AND THAT CURRENT

EQUITABLE FOREIGN INVESTMENT CLIMATE PREVAILING THERE WOULD BE JEOPARDIZED. THIS WOULD RESULT IN ADVERSE IMPACT UPON QUALITY OF HEALTH TREATMENT AVAILABLE TO PEOPLE OF PHILIPPINES AS RESEARCH- BASED MANUFACTURERS WOULD BE DISCOURAGED FROM UNDERTAKING INVESTMENT REQUIRED TO INTRODUCE NEW DRUG DISCOVERIES IN THE PHILIPPINES. THUS FILIPINO PATIENTS WOULD BE EXPOSED TO DRUGS OF POORER QUALITY FOUND TO BE CHARACTERISTIC OF INFRINGING MANUFACTURERS.

5. INDUSTRY SOURCES INDICATE THAT PATENT LAWS SHIFTING PROTECTION TO PROCESSES MAY PLACE BURDEN OF PROOF ON PATENT HOLDER TO PROVE COMPETITOR HAS VIOLATED PATENT WHICH EFFECTIVELY WEAKENS PROTECTION IN CONTRAST TO PROCEDURE OF PLACING BURDEN OF PROOF OF NON- VIOLATION UPON IMITATOR- COMPETITOR.

6. DEPT COMMENT: IN REGARD TO OTHER CHANGES CITED IN PARAGRAPH 1 REFTEL, IT IS HOPED PROVISIONS OF ANY BILL REGARDING COMPULSORY LICENSING, ETC., WILL BE IN ACCORDANCE WITH PARIS CONVENTION PROTECTION INDUSTRIAL PROPERTY.

7. ACTION REQUESTED: EMBASSY IS REQUESTED TO EXPRESS ITS CONCERN OVER PROPOSED LEGISLATION TO APPROPRIATE GOP OFFICIALS CITING ABOVE POINTS AS DEEMED APPROPRIATE. EMBASSY SHOULD SEEK POSTPONEMENT GOP DEADLINE FOR SUBMISSION OF POSITION PAPERS FROM INTERESTED PARTIES UNTIL APRIL 2 AS PMA POSIT ON PAPER POUCHED TO EMBASSY TODAY FOR TRANSMITTAL TO GOP. ROGERS

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*** Current Handling Restrictions *** n/a

*** Current Classification *** UNCLASSIFIED

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 22 MAR 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973STATE052964
Document Source: CORE
Document Unique ID: 00
Drafter: EJRANKIN: VJW
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Film Number: n/a
From: SECSTATE WASHDC
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730336/aaaaifpo.tel
Line Count: 105
Locator: TEXT ON-LINE
Office: ORIGIN EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 73 MANILA 3083
Review Action: RELEASED, APPROVED
Review Authority: thigpegh
Review Comment: n/a
Review Content Flags:
Review Date: 07 NOV 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07-Nov-2001 by elbezefj>; APPROVED <05-Feb-2002 by thigpegh>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> jms 971223
Subject: PROPOSED REVISION OF PHILIPPINE PATENT LAW FOR PHARMACEUTICAL PRODUCTS
TAGS: EIND, RP
To: MANILA
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005